

## REMARKS

After entry of the present amendments, claims 1-74 remain in this application. Claims 1, 2, 27, 28, 37, 39, 41, 42, 55, 65, 66, 70 have been amended.

### **Section 102 Rejections**

Claims 1, 2, 5-7, 12, 13, 22, 25, 27-28, 30-32, 37, 41-42, 44-46, 51-52, 60, 63, and 65 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,923,252 to Sizer et al. Applicants respectfully traverse these rejections in view of the remarks below and claim amendments submitted herewith.

Regarding independent claims 1, 27, 37, 41, and 65, these claims have been amended to call for a gaming machine that displays a wagering game or a gaming machine that includes a display that displays a wagering game. These amendments are made notwithstanding Applicants' disagreement that the term "gaming machine" refers to intended use. A "gaming machine" has a well understood meaning in the art to those of ordinary skill therein. As amended, the rejected independent claims are patentable over Sizer et al. because Sizer et al. does not disclose or suggest a gaming machine that displays a wagering game. The rejected dependent claims are also patentable over Sizer et al. for at least the reason that the respective independent claim from which they depend is patentable thereover.

Claims 2, 28, and 42 have been amended so that the machine data now calls for gaming machine data. Sizer et al. discloses means for assessing characteristics of a person, such as height, and demographic and psychographic information on the person. Col. 6, ll. 4-15. Sizer et al. does not disclose transmitted information being selected from a group consisting of monetary information, player tracking information, player preferences, casino preferences, and gaming machine data. Therefore, claims 2, 28, and 42 are believed to be patentable thereover for at least this additional reason.

### **Section 103 Rejections**

Claims 8, 23, 24, 26, 33, 47, 61, 62, and 64 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Sizer et al. These claims depend from independent claims 1,

27, 37, or 41, and are believed to be patentable over Sizer et al. for at least the reason that the respective independent claim from which they depend is patentable thereover.

Regarding claims 8, 33, and 47, there is no teaching or suggestion in Sizer et al. to modify the system in Sizer et al. to utilize the Bluetooth standard. The only such teaching is Applicants' own disclosure, and the use of Sizer et al. to reject these claims impermissibly resorts to hindsight reconstruction based on Applicants' teaching. As mentioned in Applicants' disclosure, "Bluetooth operates in the unlicensed ISM band at 2.4 GHz and avoids interference from other signals by hopping to a new frequency after transmitting or receiving an information packet." Specification, page 4, lines 27-30. Moreover, Bluetooth is designed to be fully functional even in very noisy radio environments, provides a very high transmission rate, and protects all information by advanced error-correction methods, as well as encryption and authentication routines for the user's privacy. Specification, page 5, lines 2-6. Thus, the selection of Bluetooth was not a mere design choice "to reduce engineering costs" as asserted by the Office Action but rather was based upon a combination of desirable attributes that rendered it attractive for the gaming environment. Accordingly, claims 8, 33, and 47 are believed to be patentable over Sizer et al. for at least the foregoing additional reasons.

Regarding claims 24 and 62, Sizer et al. discloses "by placing a sensor in the ceiling of the detection area, it is possible to determine the height of the target individual." Col. 16, ll. 2-4. This does not disclose disposing a transceiver at a height proximate to a height of a waist of an average standing person. If the sensor of Sizer et al. were disposed proximate the waist, it would not be able to determine the height of the target individual. Accordingly, claims 24 and 62 are believed to be patentable over Sizer et al. for at least this additional reason.

Claims 3-4, 9-11, 14-21, 29, 34-36, 38-40, 43, 48-50, 53-59, and 66-74 (of which 39, 66, 68, and 70 are independent) were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,429,361 to Raven et al. in view of Sizer et al. Regarding independent claims 39, 66, 68, and 70, they (in their respective amended forms as applicable) are believed to be patentable over the cited combination for at least the reasons set forth below.

In the Background of The Invention section of Applicants' disclosure, problems and drawbacks associated with manually inserted portable data units in gaming environments are described beginning on page 2, line 19:

Heretofore, to communicate with gaming machines, portable data units of the above type have had to be manually inserted by players into data unit readers at the gaming machines. This arrangement suffers from numerous drawbacks. First, the process of retrieving the portable data unit and manually inserting it into a data unit reader can be inconvenient to a player especially if the player wishes to play numerous gaming machines in a relatively short period of time. Second, unless the portable data unit is somehow attached to the player by a string, chain, or the like, a player may forget to remove the portable data unit from the data unit reader upon completion of a gaming session, thereby possibly allowing a subsequent unscrupulous player at that gaming machine to use the data unit for his/her own benefit. Third, data unit readers are often disposed at peculiar locations on gaming machines, such as above a video or mechanical display. This, in turn, requires a player to awkwardly reach for the peculiar location to manually insert the portable data unit. If the portable data unit is attached to a string or the like, it is common for the string to hang over and partially obscure the machine display as the player plays the gaming machine.

The system described in Raven et al. suffers from precisely the drawbacks that Applicants' invention sought to overcome. For example, Raven discloses a manual card reader 12 that accepts a card carried by the player. However, the player must first locate the card reader 12 on the gaming machine, retrieve the card from the player's person, and then insert the card into the card reader 12. This time-consuming process causes the player to spend time fiddling around with his card and the card reader instead of playing the game and contributing to a profitable gaming environment for the gaming establishment. In Figure 1 of Raven, a manual card reader is located at a peculiar location above and to the right of the primary display. When the player inserts a card into the card reader 12, the card must be kept in the card reader 12 until the player is ready to leave the machine. *See, e.g.*, Col. 8, ll. 29-30. A player could easily forget his card is still in the card reader 12 after several minutes of play, which present security and convenience drawbacks as mentioned in Applicants' disclosure. Nowhere does Raven et al. mention or even suggest that the card reader 12 can be modified to be wireless as conceded by the Office Action on page 6. Because Raven's disclosure suffers from the drawbacks described in Applicants' disclosure, Raven actually teaches away from the claimed invention. Accordingly, Applicants submit that it would not have been obvious to modify Raven to include the wireless features of Sizer. If a rejection is maintained based on a modification of Raven in view of Sizer, Applicants respectfully request that the subsequent Office Action identify where, either in the

references or knowledge generally available to one of ordinary skill in the art, such modification is suggested.

The Office Action asserts that the suggestion to combine or modify Raven is found in Sizer because "Sizer's system is directed at the attracting customers to interact with point-of-sale devices at retail establishments . . . ." Office Action at 6. Applicants respectfully disagree. What "point-of-sale devices" does Sizer disclose with which a customer can interact? The customer does not interact with the "message delivery device" 1 shown in FIG. 1. Nor does he interact with the speakers 31, 32. The scenario described in Sizer is one in which a customer is shopping at a retail outlet, and when he stands in front of a particular object, such as a particular brand of wine, a targeted audio or video message is broadcast to the customer, presumably to encourage the customer to purchase that brand of wine. Col. 2, ll. 39-44. The customer in no way interacts with the message delivery device 1.

By contrast, claim 70, as amended, for example calls for, inter alia, "playing a wagering game on the gaming machine using the transmitted information." Claim 66, as amended, calls for, inter alia, means for initiating a wagering game on the gaming machine based at least in part on the transmitted monetary information. Claim 39, as amended, calls for, inter alia, initiating a wagering game on the gaming machine based at least in part on the transmitted monetary information. Simply put, to analogize a gaming machine with an inanimate bottle of wine or other retail object goes too far. The only "interaction" by the customer is to pick up the bottle of wine and put it in his basket. For at least the foregoing reasons, claims 39, 66, 68, and 70 are believed to be patentable over Raven in view of Sizer.

To the extent that the Office Action suggests that Sizer could be modified in view of Raven to produce Applicants' claimed invention, Applicants respectfully disagree. Nothing in Sizer suggests providing a gaming machine, accessing monetary information associated with a personal identifier from a player's monetary account at a central host computer, wirelessly transmitting monetary information from a portable data unit to a gaming machine, or playing a wagering game on a gaming machine using wirelessly transmitted information as claimed.

Regarding the rejected dependent claims, Applicants submit that they are patentable for at least the reason that the respective independent claims from which they depend are patentable over Raven in view of Sizer.

Regarding claims 10, '35, and 49, Raven does not disclose encrypting the transmitted information. Converting data into binary, decimal, hexadecimal, or ASCII codes is not encryption. Applicants submit that "encrypting" has a well understood meaning in the art, and one of ordinary skill in the art would not consider conversion between well known computer formats, such as binary and hexadecimal, all of which permit easy conversion from one format to another, to be encryption.

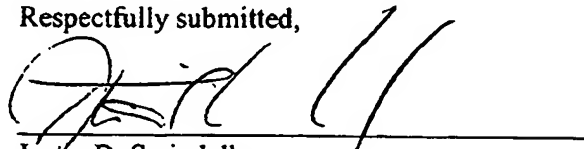
Regarding claims 17 and 55 (as amended), Raven does not disclose using game customization information to adapt the gaming machine to player preferences. The "casino-defined" parameters described in column 4 of Raven are not player preferences.

**Conclusion**

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

It is believed that no fee is presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47079-00107USD1.

Respectfully submitted,



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